IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19609 of 2004

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Between:

M/s. Chandra Container Manufacturers,
Plot No.60, IDA, Phase-II, Patancheru,
Medak District, rep. by its Partner Mr. P. Prabhakar.

..... PETITIONER

AND

The Assistant Provident Fund Commissioner,
(Authority under Section 14B of the Provident Fund Act,1952)
Sub-Accounts Office, Ssusheeram Complex,
Patancheru 502 319.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus declaring the action of the Respondent in treating the show cause Notice itself as a levy order and not passing any further order either confirming the amounts mentioned in the Show Cause Notice or passing a separate order determining the damages is arbitrary, illegal and violative of the rights of the Petitioner guaranteed under Article 14 of the Constitution of India and consequently set aside the proceedings No.AP/21931/SAO/PTC/ENF(PD)/2004; dtd.08.10.2004 issued by the Respondent.

Counsel for the Petitioner: MR.P.BALAJI VARMA

Counsel for the Respondent: MR.R.N.REDDY

The Court made the following :

ORDER:

The demand notice dated 8-10-2004 issued to the petitioner pursuant to the order passed under Sections 7-A and 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for shot 'the Act') is the subject matter of challenge in the present writ petition.

Against the order passed under Section 7-A of the Act, proper remedy for the petitioner is to file an appeal before the appellate Tribunal. Without questioning the assessment order as well as the penal damages levied, if any, he cannot question

the consequential demand notices issued thereon. If the petitioner is aggrieved by the said assessment order, it is open for him to file an appeal before the appellate Tribunal.

In view of the same, interest of justice will be met, if the petitioner deposits 50% of the amount so demanded within a period of four weeks from today, no further steps shall be taken pursuant to the assessment orders subject to petitioner filing an appeal against the said orders. In the event of such an appeal being filed before the appellate Tribunal, and on producing proof of evidence of depositing 50% of the amount demanded, the appellate authority shall consider the said appeal and dispose of the same in accordance with law. The amount deposited by the petitioner will abide by the decision in the appeal.

The Writ Petition is accordingly disposed of. No costs.

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A. Gopal Reddy, J.

2nd November, 2004.

Js.

ASSISTANT REGISTRAR

To

1. The Assistant Provident Fund Commissioner,
(Authority under Section 14B of the Provident Fund Act,1952)
Sub-Accounts Office, Ssusheeram Complex,
Patancheru 502 319.

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